S.B. CIVIL WRIT PETITION NO.2912/2007.
(Jagdish Kumar Vs. State & Ors.)
:::

S.B. CIVIL WRIT PETITION NO.3005/2007.
(Heera Ram Vs. State & Anr.)

:::

Date of Order :: 24th September 2007.

HON'BLE MR. JUSTICE DINESH MAEHSHWARI
:::

Mr. Mahesh Bora, for the petitioner in CWP No.2912/2007.
Mr. Rakesh Arora, for the petitioner in CWP No.3005/2007.
Mr. Rameshwar Dave, Dy.G.A., for the respondent-State.
Mr. Tarun Joshi, for the respondent-RPSC.
...

BY THE COURT:

These two writ petitions raising similar nature grievance have been heard together and are taken up for disposal by this common order.

The respondent-Rajasthan Public Service Commission ('the RPSC') invited applications for competitive examination for the purpose of appointment to the post of Teacher in Primary and Upper Primary Schools by an advertisement dated 30.10.2006. The petitioners applied for and were allowed to appear in the examination held on 25.02.2007. The petitioner Jagdish Kumar (CWP No.2912/2007) was allotted Roll No.162522 and the petitioner Heera Ram (CWP No.3005/2007)

was allotted Roll No.350455. The result of the examination was declared on 16.03.2007 and the result along with answer key were published in the newspaper on 17.03.2007 giving out answers for four series of question papers, marked A, B, C & D.

According to the petitioner Jagdish Kumar (CWP No.2912/2007), he was provided with series 'B' question paper and as per the answer-key published by the RPSC, three questions have been left out without assigning any answer meaning thereby that no answer to these questions is available in the choices supplied in the question paper. Therefore, according to the petitioner, he is entitled to get 6 bonus marks for these 3 questions; and with addition of such bonus marks, his total marks ought to be 106.67 and thus, he ought to stand in merit in OBC category in relation whereof the RPSC has declared cut-off marks at 101.33. The petitioner has submitted that he made a representation that has not been replied to and his grievance has not been redressed. The petitioner has taken averments to the effect that he has come to know from "some sources" that as per answer key, he answered 60 questions correctly, 29 of his answers were incorrect, and thus he was given 100.67 marks. The petitioner has made the prayer for direction to the RPSC to produce the entire record in his relation; and has further prayed for the relief that the RPSC may be directed to award him 6 bonus marks.

The other writ petitioner Heera Ram (CWP No.3005/2007) has taken the averments that he has wrongly been awarded only 80.67 marks though, according to the answer key published in relation to the question paper supplied to him and as per the answers given by him, he should have been awarded 110 marks. In paragraph 6 of the writ petition, the petitioner has stated the serial numbers of the questions supposedly answered correct by him; and with addition of bonus marks has asserted that he was entitled to 110 marks. It may be pointed out that this writ petitioner Heera Ram earlier filed S.B. Civil Writ Petition No.2082/2007 and made a grievance that his representation for re-checking of marks was not considered by the RPSC; and the said petition was disposed of on 11.04.2007 while directing the respondents to decide the representation of the petitioner. The said representation was responded by the RPSC by its impugned communication dated 24.04.2007 stating that there was no provision in the Rules for re-checking; and that bonus marks had already been allowed to the candidates; and that once the answers have been marked in the answer sheets, no alteration is permissible. The petitioner has now prayed that the respondent-RPSC may be directed to re-valuate/re-examine his answer sheet.

Learned counsel appearing for the RPSC though opposed these writ petitions with the submissions that bonus marks had

already been awarded and otherwise there is no right in the petitioners to seek re-checking or re-evaluation; however, learned counsel in all fairness has placed before the Court for perusal the answer sheets of these two writ petitioners and has also pointed out that in view of this litigation, the RPSC on its own has got their answer sheets checked manually and has not found any discrepancy in the marks awarded.

Having examined the matter in totality, this Court is satisfied that the present writ petitions remain bereft of substance and deserve to be dismissed.

It is evident that the propositions stated by the respective petitioners and the calculations in relation to tally of marks in each case have their basis in the notions and impressions carried by the petitioners about the answers stated by them; and such notions of both these petitioners are fundamentally incorrect.

Having examined the answer sheets of the petitioners with reference to the answer key, this Court is satisfied that the marks have been awarded correctly and with precision, without any error at all; and both the petitions suffer from fundamentally incorrect factual foundation.

The suggestion as made by the petitioners in relation to the answers marked by them is wrong in relation to various questions. Learned counsel for the petitioner Jagdish Kumar has

placed for perusal a hand-written sheet prepared by the petitioner stating the serial numbers of the questions that were, according to the said petitioner, respectively not answered, correctly answered, and incorrectly answered. That such suggestion of the petitioner is wrong to the hilt could be a demonstrated with examples that the petitioner treats question No.37 to have rightly been answered but the same has not been answered at all. Likewise, the petitioner treats question No.97 having been rightly answered whereas the same has also not been answered at all. Similarly, the petitioner Heera Ram treats question No.68 to have rightly been answered whereas it has not been answered at all; and again, he treats questions No.92 to have rightly been answered but the same has also not been answered at all.

There are several other mistakes in the assertions made by these petitioners about question numbers and correct answers and on the other hand, the assessment made by the RPSC perfectly tallies with the respective answer sheets read with the answer key. Moreover, the petitioner Heera Ram (CWP No. 3005/2007) has been awarded 6 bonus marks for three questions to be ignored in relation to his question paper of 'A' series; and the petitioner Jagdish Kumar (CWP No.2912/2007) has also been awarded 6 bonus marks for three questions to be ignored in relation to his question paper of 'B' series. .

It is apparent that the petitioners had been reckless while filing these petitions and while insisting upon the RPSC to re-check or re-evaluate their answers.

It may be pointed out that in the absence of any provision for re-checking or re-evaluation of the answer sheets, neither the petitioners are entitled to ask for the same nor a candidate is entitled to maintain a writ petition by making such averments where he claims a particular quantum of marks to be available to him; nor this Court would enter into such disputes in the extraordinary writ jurisdiction.

In the present two cases, it has been fair on the part of the RPSC that they had placed the answer sheets for perusal of the Court and while doing so had taken botheration to have the answer sheets re-checked manually too which are otherwise meant for mechanical checking. It is required to be clarified that this Court has not asked the RPSC to carry out any such re-checking nor any proposition of re-checking could be forced upon the RPSC merely on the basis of the bald allegations made by a candidate. The observations made hereinabove on the factual aspects are intended only to demonstrate the baselessness of the case of the petitioners and are not intended to give out any proposition that by way of taking up such litigation, a candidate could force re-checking of the answer sheets by the RPSC

particularly when there is no provision for re-checking of the answer books or sheets.

Both these petitions deserve to be dismissed. The petitions being founded on fundamentally incorrect facts, this court would have saddled the petitioners with heavy costs for taking up such frivolous litigation, but the petitioners seem to be unemployed persons having taken the examination aforesaid in search of employment, and assuming that the petitioners have not intentionally taken such incorrect averments, they are let off only with warning to remain careful in future.

During the course of consideration of these matters, this Court expressed the views that though the RPSC is to be credited with the sense of responsibility and the presumption, if any, is in favour of the RPSC of having conducted the process of selection in a fair manner and evaluation of answer sheets having been undertaken with high degree of responsibility; and ideally speaking, the system of evaluation by the mechanical process on the multiple choice answer sheets could be treated to be 'zero-error' system, yet for the sake of transparency also and avoiding such proposition of re-checking or doubt about the correctness of the answers given by the candidate, the RPSC may consider evolving some system whereby the candidate may get an exact replica/copy of the answers given by him. In response, learned counsel for the RPSC has pointed out that the

RPSC had been considering feasibility of providing for some such mechanism, if possible and if conducible to the system. This Court would trust the RPSC in giving anxious consideration to the matter and doing the needful in the right earnest.

The writ petitions stand dismissed.

(DINESH MAHESHWARI), J.

Mohan/

S.B. CIVIL WRIT PETITION NO.3005/2007.
(Heera Ram Vs. State & Ors.)

Date of Order :: 24th September 2007.

HON'BLE MR. JUSTICE DINESH MAEHSHWARI

Mr. Rakesh Arora, for the petitioner.
Mr. Rameshwar Dave, Dy.G.A.]
Mr. Tarun Joshi], for the respondents.
...

The writ petition is dismissed. (See separate order made in S.B. Civil Writ Petition No.2912/2007 : Jagdish Kumar Vs. State & Ors.).

(DINESH MAHESHWARI), J.

Mohan/